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Attorneys for Defendant
CITY OF ANTIOCH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANTEYA DANYELL WILLIAMS;
MARY RUTH SCOTT; KAREN
LATREECE COLEMAN; PRISCILLA
BUNTON, and ALYCE DENISE PAYNE,
on behalf of themselves and all others
similarly situated ,

Plaintiffs,

vs.

CITY OF ANTIOCH,

Defendant.

Case No. C08-02301 SBA

**DEFENDANT ANTIOCH'S NOTICE OF
MOTION AND MOTION FOR
JUDGMENT ON THE PLEADINGS PER
FRCP 12(C) AND (H)(2)(B) TO DISMISS
PLAINTIFF BUNTON'S AND THE
CLASS' CLAIM FOR DAMAGES PER
CIVIL CODE § 52.1 (EIGHTH CLAIM
FOR RELIEF)**

Date: January 12, 2010

Time: 1:00 p.m.

Judge: Sandra B. Armstrong

Trial: None Set

TO ALL PARTIES AND TO THEIR ATTORNEY'S OF RECORD:

PLEASE TAKE NOTICE THAT on Tuesday, January 12, 2010 at 1:00 p.m. in the above
entitled Court, Courtroom 1, 4th Floor, 1301 Clay Street, Oakland, CA 94612, Defendant CITY
OF ANTIOCH will and hereby do move this Court for a judgment on the pleadings per FRCP
12(c), (h)(2)(B) to dismiss Plaintiffs' Eighth Claim for Relief for damages under Cal. Civil Code
§ 52 with regard to Plaintiff Priscilla Bunton and the class.

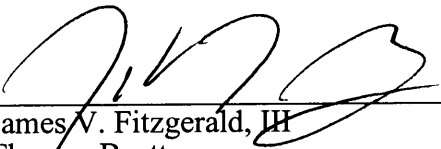
This motion is brought on the ground that it is apparent on the face of the pleading that
Plaintiff Priscilla Bunton is barred from seeking damages under Cal. Civil Code § 52 in this
lawsuit per Cal. Gov't Code § 945.4 for failure to file a government tort claim. Likewise, it is

1 also apparent on the face of the pleading and the judicially noticed claims filed by Plaintiffs
 2 Williams, Scott, Coleman and Payne, that the class is barred from seeking damages under Cal.
 3 Civil Code § 52 in this lawsuit per Cal. Gov't Code § 945.4 for failure to file a government tort
 4 claim. As such, Defendant respectfully asks this Court to dismiss the Eighth Claim for Relief for
 5 damages under Cal. Civil Code § 52 with regard to Plaintiff Bunton and the class, per FRCP 12(c)
 6 and (h)(2)(B).

7 This Motion is based on this Notice of Motion and Motion, the Memorandum of Points
 8 and Authorities in support thereof, the supporting declarations of James V. Fitzgerald, III, and the
 9 Request for Judicial Notice, filed and served herewith, the pleadings and papers already on file in
 10 this action and such further evidence and oral argument as may be presented by counsel at the
 11 hearing on this motion.

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 13 Dated: December 3, 2009

MCNAMARA, DODGE, NEY, BEATTY, SLATTERY,
 PFALZER, BORGES & BROTHERS LLP

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 15 By: 
 16 James V. Fitzgerald, III
 17 Thomas Beatty
 18 Attorneys for Defendant
 19 CITY OF ANTIOCH
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